



DECLARATION AND POWER OF ATTORNEY  
PATENT APPLICATION

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name:

I believe I am the original, first and sole (if only one name is listed below) or an original, first and joint (if plural names are listed below) inventor of the subject matter which is claimed and for which a patent application is sought on the invention entitled:

**SYSTEM, METHOD AND APPARATUS FOR EVALUATING TISSUE TEMPERATURE**

the specification of which

[ ] is attached hereto.

[X] was filed on December 11, 2003, as application Serial No. 10/733,970; and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).


I hereby claim benefit under Title 35, United States Code, §120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of the application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national PCT international filing date of this application:

<u>60/466,225</u> App'n Serial No.	<u>04/28/2003</u> Filing Date	<u>expired</u> Status (patented, pending, abandoned)
<u>10/246,347</u> App'n Serial No.	<u>09/18/2002</u> Filing Date	<u>pending</u> Status (patented, pending, abandoned)
<u>10/201,363</u> App'n Serial No.	<u>07/23/2002</u> Filing Date	<u>abandoned</u> Status (patented, pending, abandoned)
<u>60/349,593</u> App'n Serial No.	<u>01/18/2002</u> Filing Date	<u>expired</u> Status (patented, pending, abandoned)

I hereby appoint Gerald L. Smith, Reg. No. 22,009, Jerry K. Mueller, Jr., Reg. No. 27,576, and Diane E. Burke, Reg. No. 45,725 jointly and each of them severally, my attorneys and attorney, with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent and to transact all business in the Patent and Trademark Office connected therewith. I hereby direct that all correspondence be addressed to: Mueller and Smith, LPA, 7700 Rivers Edge Drive, Columbus, Ohio 43235, and all telephone calls be directed to Gerald L. Smith, at telephone number (614) 436-0600.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Philip E. Eggers

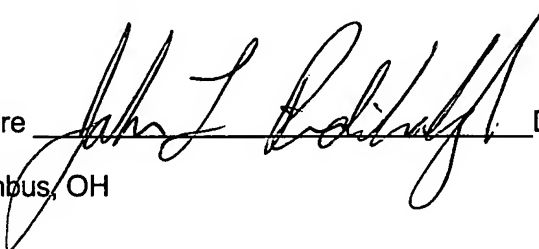
Inventor's signature  Date September 14, 2004  
Residence: Dublin, OH

Citizenship: US

Post Office Address: 5366 Reserve Drive, Dublin, OH 43017

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Full name of second inventor: John L. Ridihaigh

Inventor's signature  Date 9/15/04  
Residence: Columbus, OH  
Citizenship: US

Post Office Address: 2112 Iuka Avenue, Columbus, OH 43210

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Full name of third inventor: Mark Mayerchak

Inventor's signature Mark Mayerchak Date 9/3/04

Residence: Bothell WA

Citizenship: US

Post Office Address: 18323 51<sup>st</sup> Avenue, SE , Bothell, WA 98012

\*\*\*\*\*

Full name of fourth inventor: Gary Altman

Inventor's signature Gary Altman Date 9/3/04

Residence: Kirkland, WA

Citizenship: US

Post Office Address: 14219 128<sup>th</sup> Place, NE, Kirkland, WA 98034